FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.708 OF 1987

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.T.S. Ingale for petitioners.

Mr.V.P.Malvankar, AGP with Mr.C.R.Sonawane, AGP for respondents.

CORAM : H.L GOKHALE &
J.H.BHATIA, JJ.
DATED : 13th June 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. The petitioners herein are the heirs of one Balaso Babgonda Patil. A part of the lands owned by the petitioners was sought to be acquired by the State for the rehabilitation of the project affected farmers by invoking the provisions of the Maharashtra Resettlement of Project Displaced Persons Act, 1976 ("the said Act" for short). What is material to be decided is as to whether the

present petitioners, who are the successors of the original land owners, were cultivating their lands separately or together on the date on which the said Act came to be applied i.e. 13th May 1977. The petitioners are relying upon the various documents and particularly the entries in the note books maintaining the Khate Utara. Similar questions were raised in some other matters which went up to the Supreme Court and Mr.Ingale appearing for the petitioners has drawn our attention to the order passed by the Apex Court in Civil Appeal No.11809 of 1995 in the case of **Babaso Bhau Balwan vs. Director of Resettlement & ors.** In that proceedings the Apex Court has found it appropriate to remand the matters to the Commissioner, Pune Division, Pune to decide this question on evidence. Mr.Ingale informs that in pursuance of this

order passed by the Apex Court on 1st December 1998, number of such matters have been decided by the Commissioner, Pune Division, Pune. This petition, however, remained pending in this Court, though it has been filed way back in the year 1987.

3. In the circumstances, we asked Mr.Malvankar, learned AGP appearing for the respondents, about the course of action suggested and he has left it to the Court to pass appropriate orders.

4. In the circumstances, in view of the order passed by the Apex Court in **Babso B. Balwan's case (supra)**, in the present case also, we permit the petitioners to make an application to the Commissioner, Pune Division, Pune, on the strength of this order to decide as to whether the

petitioners were holding their lands separately prior to the date mentioned above. This is principally because in the event they were holding their lands separately, they will not be hit by the provisions for acquisition since their holdings will fall below the permissible holdings. We direct the Commissioner, Pune Division, Pune, to decide the application within three months from the receipt thereof.

5. There has already been an order of status quo running in this matter. This order of status quo has been passed way back on 5th February 1987. That will continue to operate during the pendency of the proceedings before the Commissioner. The petitioners will be permitted to produce all necessary evidence before the Commissioner.

6. Petition stands disposed

of with the above order.

(H.L.GOKHALE, J.)

(J.H. BHATIA, J.)